

JP:SCF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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11-1227 M

UNITED STATES OF AMERICA

- against -

COMPLAINT

(T. 18 U.S.C. § 1542)

DAVID JOSIAH BERNARD,
also known as
"David J. Bernard" and
"David Joseph Bernard,"

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

LECH KAZMIRSKI, being duly sworn, deposes and states
that he is a Special Agent with the Department of State,
Diplomatic Security Service ("DSS"), duly appointed according to
law and acting as such.

Upon information and belief, on or about March 10, 2011, within the Eastern District of New York, the defendant DAVID JOSIAH BERNARD, also known as "David J. Bernard" and "David Joseph Bernard," did willfully and knowingly make a false statement in an application for a passport under the authority of the United States for his own use, contrary to the laws regulating the issuance of passports and the rules prescribed pursuant to such laws.

(Title 18, United States Code, Section 1542)

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Special Agents with DSS and have been so for approximately one year. I am familiar with the facts and circumstances set forth below from my personal involvement in this investigation, my review of the investigative file and from reports of other law enforcement agents involved in this investigation.

2. On or about March 10, 2011, the defendant David Josiah Bernard ("Bernard"), a native of the Cayman Islands, and a citizen of the United Kingdom, applied for a United States passport at the Sutter Avenue United States Post Office, in Brooklyn, New York. By way of the passport application, form DS-11, Bernard sought a passport for himself, and for his own use, by providing various forms of personal identifying information belonging to another individual.

3. Specifically, on the form DS-11, Bernard submitted a social security number, date of birth, and place of birth that belong to a different individual currently residing in Colorado (the "True Identity"). Further, in support of his fraudulent passport application, Bernard provided a false birth certificate, which also belongs to the True Identity. Agents have contacted

¹ Because the purpose of this affidavit is to set forth only those facts necessary to establish probable cause, I have not set forth all the facts and circumstances of which I am aware.

the True Identity, and have determined that he did not permit Bernard to use his identifying information. Indeed, the True Identity was aware that his identity had been stolen, but he has no idea who the defendant is.

4. During the course of verifying the information provided by the defendant, the National Passport Center determined that in 1995, the Seattle Passport Agency issued a separate United States passport, with identical biographical data, but a different photograph, to the True Identity. At that time, the National Passport Center referred the matter to DSS for further investigation.

5. Once DSS took over the case, agents were able to determine that the identifying information subscribed to by Bernard in his March 2011 passport application does, in fact, belong to the True Identity.

6. Further investigation revealed that the defendant is a native of the Cayman Islands, and a citizen of the United Kingdom with a criminal history that includes an October 1, 1999 conviction in the United States District Court for the Southern District of Florida for Making a False Statement in a Passport Application, in violation of 18 U.S.C. § 1542. The defendant received a sentence of time served as a result of that offense. Following his conviction, on July 3, 2001, the defendant was removed from the United States pursuant to an Order of Removal dated June 15, 2001.

7. Subsequent to being deported from the United States, the defendant illegally reentered this country. He was arrested in Manhattan on August 3, 2010, by the New York City Police Department, 6th Precinct for Assault in the Third Degree, in violation of New York Penal Law, section 120.00. Bernard was fingerprinted at the time of his arrest in New York. Those fingerprints, and the fingerprints taken in connection with his arrest underlying his conviction for passport fraud in Florida, match the FBI number assigned to the defendant. Furthermore, a comparison of the defendant's photograph in his Alien file, maintained by U.S. Citizenship and Immigration Services appears to depict the same individual whose photograph appears in the aforementioned March 13, 2011 passport application. Additionally, the booking photograph from the defendant's August 3, 2010 arrest in Manhattan also depicts the same individual.

WHEREFORE, your deponent respectfully requests that the defendant DAVID JOSIAH BERNARD, also known as "David J. Bernard" and "David Joseph Bernard," be dealt with according to law.

S/ Lech Kazmirska

LECH KAZMIRSKI
Special Agent
United States Department
of State

Sworn to before me this
13th day of December, 2011

S/ Roannd L. Mann

United States Magistrate Judge
Eastern District of New York